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In re Application of McEWAN et al  
U.S. Application No.: 09/980,528  
Int. Application No.: PCT/US99/23781  
Int. Filing Date: 12 October 1999  
Priority Date: none  
Attorney Docket No.: 604.10-US1  
For: INDIVIDUALIZED ELECTRONIC  
COMMERCIALS

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DECISION

This is in response to applicant's "Renewed Request for Status Under 37 CFR 1.42" filed 13 August 2002.

**BACKGROUND**

On 12 October 1999, applicant filed international application PCT/US99/23781. A Demand for international preliminary examination, in which the United States was elected, was filed on 17 August 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States will expire at midnight on 12 April 2002.

On 14 November 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a request for status under 37 CFR 1.42. The request for status included a declaration executed by inventor Richard McEwan and by the executors of inventor Serge Herring, who according to the declaration is deceased.

On 07 February 2002, this Office mailed a decision dismissing the 14 November 2001 request for status on grounds that the declaration was not in compliance with 37 CFR 1.497(b)(2).

On 13 August 2002, applicant filed the present renewed request for status along with a new declaration.

### DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.


In the present case, the declaration filed 13 August 2002 is in compliance with 37 CFR 1.497.

### CONCLUSION

The papers filed 13 August 2002 are ACCEPTED under 37 CFR 1.42.

The application has an International Filing Date of 12 October 1999 and a date under 35 U.S.C. 371 of 13 August 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

  
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